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HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (S) NO. 3081 of 2007

Petitioner		B.R. Mandavi, S/o Shri Jhumuk Lal mandavi, Aged about 40 years, R/o Ashish Naye, Bhilai Street No. 10, West Qtr. No. 06/10, Bhilai, District Durg, C.G.
		Versus
Respondents	1.	State of Chhattisgarh, Through the Secretary, Department of Women and Child Development, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
	2.	The Director, Department of Women and Child Development, Raipur (C.G.)
	3.	The Collector, District Durg (C.G.)
	4.	District Child and Women Development Officer, Durg, C.G.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Single Bench :- Hon'ble Shri Justice **Satish K. Agnihotri**

Present :- Mr. Jitendra Gupta, Advocate for the Petitioner.

ORDER
(Passed on this 11th day of May, 2007)

1. The petitioner was working as Project Officer, Integrated Child Development Project, Dhamdha, District Durg. During his posting at Dhamdha, some complaints with regard to delay payment to the staff and embezzlement of government money were made. The respondent No. 3 i.e. Collector, Durg in contemplation of the departmental enquiry, placed the petitioner under suspension vide order dated 18th October, 2006 (Annexure P/2).

2. It appears that the departmental enquiry as contemplated under the provisions of Section 9(1)(a) of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter

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referred to as 'the Rules, 1966') could not be initiated within 45 days. The said suspension order was revoked vide order dated 15.12.2006 (Annexure P/3). The petitioner was again placed under suspension vide order dated 17th April, 2007 (Annexure P/1) on the same allegations as well as other additional allegations.

3. The petitioner challenges the legality and validity of the suspension order dated 17th April, 2007 (Annexure P/1) on the ground that the petitioner could not have been suspended for the same grounds, as earlier the suspension order was revoked. Secondly, the petitioner has been transferred to other place. Thus, the petitioner would not cause any hindrance or influence in the departmental proceedings.

4. There is no grievance of the petitioner that the officer, passing the impugned suspension order, is not a competent authority. Admittedly, the departmental proceedings against the petitioner is contemplated, as required under section 9(1)(a) of the Rules, 1966.

5. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions, not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, but he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of the departmental enquiry and likely tampering with on records. At this stage is it not necessary to go into the charges leveled against the petitioner because it may prejudice the case of

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the parties in the pending departmental enquiry (See. Smt. Philomina Ekka Vs State of C.G. & Others[1])

6. Be that as it may, since the suspension does not tantamount to punishment, the petitioner is entitled to subsistence allowance. According to learned counsel appearing for the petitioner, the petitioner has not been paid any amount from 15.12.2006 to 1.5.2007. The respondents-authorities cannot deprive the petitioner from payment of his salary from 15.12.2006 till the day the suspension order of the petitioner was passed on 17.4.2007. The petitioner was placed again under suspension and thereafter, he is entitled to subsistence allowance. The respondents-authorities are accordingly directed to ensure that legally permissible salary for the above stated period and subsistence allowance be granted to the petitioner, expeditiously.

7. I do not propose to examine the allegations made in the suspension order as the enquiry is already pending consideration. This order will not come in the way of enquiry, pending against the petitioner on merit. The enquiry authority may proceed with the enquiry uninfluenced by this order.

8. For the reasons stated hereinabove, the writ petition to the extent of quashing of the suspension order dated 17th April, 2007 (Annexure P/1) is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

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1. 2006 (2) C.G.L.J. 64

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